

House Panel Backs Curb on Warrantless Bugging

By George Lardner Jr.
Washington Post Staff Writer

The House Intelligence Committee voted 8 to 2 yesterday to approve a bill requiring the government to obtain court approval for the use of electronic surveillance in most foreign intelligence cases.

Rep. Robert McClory (R-Ill.) and John Ashbrook (R-Ohio) dissented after failing in an effort to broaden the opportunities for bugging U.S. citizens who are working for a foreign power. The bill requires that they be involved in activities which "may in-

volve" a criminal violation.

Ashbrook and McClory wanted to drop that standard altogether.

After a secret briefing last week from Defense Department officials and other administration witnesses, the committee did, however, approve another amendment permitting the government to continue the interception of communications "exclusively between or among foreign powers" without going to the courts.

Rep. Romano Mazzoli (D-Ky.) objected, saying he feared this might leave FBI agents assigned to carry out

the "black bag" jobs preceding such intercepts in legal jeopardy.

Beyond that, Mazzoli said he felt strongly that the main selling point of the bill ought to be that "every communication, picked up by a wiretap concerning foreign surveillance would be preceded by a court order."

The exemption approved by the committee over Mazzoli's objections involves some highly secret method of intercepting communications between, for instance, a foreign embassy and its overseas capital.

"There are no U.S. persons involved in the particular type of surveillance we're concerned with here," Rep. Morgan Murphy (D-Ill.) emphasized after alluding to the secret briefing.

McClory said the intelligence community did not want to subject the highly sensitive system "to risk of disclosure . . . judicial interference . . . or delay," but Mazzoli said he saw little danger in sharing the secret with the 11 district judges and 3 appellate judges who will be assigned under the bill to consider the government's

other electronic surveillance request.

About 75,000 people in the government have potential access to details about the secret intercepts, it was said, although only 150 actually know of it.

Committee Chairman Edward R. Boland (D-Mass.) "You're not going to get this bill through the House in any 95 to 1 fashion," a reference to the margin by which the Senate approved a similar measure last month.

An American Civil Liberties Union spokesman said the bill was a welcome improvement over current practice and stronger in some respects than the Senate-approved measure.

"The ACLU is opposed to all wiretapping but that said, we think the Congress is now going beyond the courts in protecting civil liberties in this area," said ACLU lawyer Jerry Berman. The government, he noted, is conducting electronic surveillance in foreign intelligence cases right now without any judicial warrants and the courts have never ruled against the practice.